BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

KATHRYN A. KOONTZ-DAUGHERITY n/k/a	)	
KATHRYN A. BONNEL	)	
Claimant	)	
VS.	)	
	)	Docket No. 124,125
ROCKWELL INTERNATIONAL	)	
Self-Insured Respondent	)	
AND	)	
	)	
KANSAS WORKERS COMPENSATION FUND	)	

ORDER

Respondent appealed the October 3, 2013, Award entered by Administrative Law Judge (ALJ) William G. Belden. The Board heard oral argument on January 14, 2014.

APPEARANCES

John M. Ostrowski of Topeka, Kansas, appeared for claimant. John D. Jurcyk of Kansas City, Kansas, appeared for respondent. David J. Berkowitz of Lawrence, Kansas, appeared for the Kansas Workers Compensation Fund (Fund).

RECORD AND STIPULATIONS

The record considered by the Board and the parties' stipulations are listed in the Award. At oral argument, respondent agreed claimant met with personal injury by accident arising out of and in the course of her employment on April 13, 1976, and gave timely notice of that accident. Claimant conceded that if her date of accident was April 13, 1976, she did not provide timely written claim to respondent. Respondent and the Kansas Workers Compensation Fund conceded that if claimant's date of accident is September 30, 1986, claimant provided timely written claim and is permanently and totally disabled.

ISSUES

The following are issues listed in the Award relevant to this appeal and ALJ Belden's findings:

1. Whether claimant met with personal injury by a series of accidents or repetitive traumas from April 13, 1976, through September 30, 1986, or from a single accident occurring on April 13, 1976. ALJ Belden found, "Based on Claimant's testimony and the greater weight of the credible medical testimony, the Court finds Claimant sustained an initial low back injury while shoveling on or about April 13, 1976, followed by a series of aggravations to the low back injury through September 30, 1986 while Claimant performed her usual work in the pattern shop."[1]

2. Whether claimant's alleged accidental injury or injuries arose out of and in the course of her employment with respondent. ALJ Belden found, "The Court concludes Claimant met with personal injury to the low back from an accident that arose out of and in the course of her employment with Respondent from April 13, 1976 and continuing each working day to September 30, 1986."[2]

3. Whether claimant gave timely notice. ALJ Belden found:

> Under the version of the Kansas Workers Compensation Act in effect on the date of accident, proceedings shall not be maintainable unless notice of the accident, stating the time, place and particulars, was given to the employer within ten days after the date of accident, although actual knowledge of the accident by the employer shall render the giving of notice unnecessary and the lack of notice shall not be a bar unless the employer proves prejudice from the lack of notice. *See* K.S.A. 44-520. In this case, Respondent received actual notice of the series of aggravations continuing to September 30, 1986 when Claimant was carried out of the pattern shop due to her injuries. Claimant also testified she regularly informed her supervisor of her ongoing back problems before her last day worked, which was not contested. The Court also finds no evidence the alleged lack of notice prejudiced Respondent. The Court finds and concludes Claimant gave Respondent timely notice of a series of accidents or repetitive trauma on September 30, 1986, if not before then, and this notice was timely. In the alternative, the Court concludes the alleged lack of notice did not prejudice Respondent and should not bar the claim for benefits.[3]

4. Whether timely written claim was made. ALJ Belden found:

> Under the Kansas Workers Compensation Act, a written claim shall be served upon the employer, either personally or by certified or registered mail, within 200 days from the date of accident or last payment of compensation. *See* K.S.A. 44-520a(a).

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[1] ALJ Award at 8.

[2] *Id.*

[3] *Id.* at 8-9.

> No time limitation shall run unless a report of the accident has been filed with the Division of Workers Compensation, if the employee has given timely notice. *See* K.S.A. 44-557(c). In this case, Claimant gave timely notice and it is undisputed Respondent did not file a report of accident with the Division of Workers Compensation concerning the series of aggravations. The 200-day limitation did not commence running. Claimant caused a written claim to be served upon Respondent on or about July 29, 1987. The Court finds and concludes Claimant gave Respondent timely written claim.[4]

Respondent contends claimant failed to prove the injuries she sustained were the result of a series of accidents that occurred subsequent to an April 1976 work incident. Respondent maintains claimant is attempting to apply *post hoc, ergo propter hoc* logic to cite the aggravations as the cause of the injuries, but that does not qualify as substantial evidence required to establish causation. Respondent submits claimant is unable to satisfy her burden of proving the aggravations caused her need for medical treatment or the resulting disability. Respondent asserts the 1976 injury is outside the Workers Compensation Act because claimant failed to file a written claim for compensation within 200 days as required by statute. Respondent contends claimant failed to establish she timely filed an Application for Hearing as a result of the 1976 accident.

The Fund maintains there is substantial and uncontradicted medical evidence in the record to find claimant sustained a series of accidents from April 13, 1976, through September 30, 1986. The Fund submits claimant met with a series of injuries and her injuries are compensable.

Claimant requests the Board affirm the ALJ's Award. She asserts no physician testified her condition is a natural and probable consequence of her 1976 work incident and she maintains it is uncontradicted that her continued work aggravated her back.

The issues before the Board on this appeal are:

1. Did claimant sustain a personal injury through a series of repetitive accidents from April 13, 1976, through September 30, 1986, arising out of and in the course of her employment with respondent? In the alternative, was claimant's back injury the result of a single work-related accident on April 13, 1976?

2. If the Board finds claimant sustained a series of repetitive accidents from April 13, 1976, through September 30, 1986, did claimant give timely notice? Did respondent have actual knowledge of claimant's accident? If not, did respondent prove it was prejudiced from lack of timely notice?

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[4] *Id.* at 9.

3. Was claimant's medical treatment reasonable and necessary to cure and relieve the effects of the back injury that was caused by her series of repetitive accidents?

FINDINGS OF FACT

After reviewing the entire record and considering the parties' arguments, the Board finds:

Claimant began working for respondent on June 5, 1975. At the September 16, 1987, preliminary hearing, claimant testified that prior to working for respondent, she had no back problems. On April 13, 1976, claimant was using a shovel to scoop slag from her stall, when her back and stomach began hurting. She testified that a shovelful of slag probably weighed 50 pounds or more. Claimant was an arc air operator, which required her to cut off excess metal from castings. The next night, claimant sought treatment from her physician, Dr. Robert Fast. Claimant testified the doctor told her to lay off the work she was doing. Claimant testified she talked to her foreman, Glen Gabbert, and told him she strained the muscles in her lower stomach, abdomen and lower back while shoveling. Claimant then sought treatment from Dr. Spencer Fast, the company physician, who provided conservative treatment. Claimant was off work about a week.

When claimant returned to work, she was placed on light duty for about a month. Claimant experienced dull, achy pain in her back. Claimant then returned to her job as an arc air operator, but she was laid off in November 1976. Claimant received treatment from her family doctor, Dr. Young, who prescribed pain pills and sent claimant to see a specialist, Dr. Grisolia. Claimant indicated the treatment provided by Drs. Young and Grisolia provided no help at all.

When claimant returned to work for respondent in March 1977, she was assigned to the pattern shop, which was a physically demanding job requiring bending, stooping, lifting and climbing. She would lift items weighing from 10 to 100 pounds and lift items every day weighing in excess of 50 pounds. Claimant had dull, achy pain in her back while working. The more weight she lifted, the more her back pain increased. Claimant continued working in the pattern shop until September 30, 1986, which was her last day of work.

At the September 16, 1987, preliminary hearing, claimant testified she began having pain down her left leg two years earlier. The pain was still in her back and ran from her hip down into her left leg to the foot. She testified that her back condition had worsened since 1977 because, "The things that I have done through my job has really damaged my body, and it has done nothing but drag it on downhill further to where it won't hold its own

anymore."[5] She associated the start of the pain down her left leg to the manual labor she was doing.

Dr. William Gondring, an orthopedic specialist, saw claimant on April 11 and May 18, 1979, for low back pain, but was not deposed until December 13, 1989. The doctor's April 11, 1979, notes indicated claimant reported she could sit for only one-half hour. Claimant would then get up and move around for five minutes before sitting again. Dr. Gondring indicated claimant was able to walk normally, kneel on the floor and walk on her knees. She could also walk on her toes and heels normally. She could deep knee bend and duck walk, but it gave her pain in the left buttocks. A neurological examination demonstrated an absent Babinski's sign. The doctor ascertained claimant's knee jerks and ankle jerks were within normal limits.

Dr. Gondring testified claimant was hospitalized from April 15 through 19, 1979, and when discharged, she had a lumbosacral strain, but no evidence of a disk problem. Dr. Gondring had claimant examined at the hospital by neurologist Dr. Dick and by Dr. John Thole. From the history given by claimant, Dr. Gondring determined the cause of claimant's lumbosacral strain was that she was born with a congenital predisposition to back pain. In an April 19, 1979, discharge summary, Dr. Gondring stated that "EMG results of L1 through S1, bilaterally, [were] within normal limits."[6] The doctor indicated claimant could return to work on April 23, 1979.

At the request of claimant's attorney, claimant was evaluated by Dr. Edward J. Prostic on December 8, 1987. The report noted claimant had a CAT scan that showed bulging to the left at L5-S1, an MRI that showed degeneration of the L5-S1 disk with similar protrusion and narrowing of the foramen and a myelogram that showed posterior bulging of L5-S1 with no obvious nerve root entrapment. Dr. Prostic's report stated: "On or about March 14, 1976 [*sic*], Kathryn Koontz [claimant] sustained injury to her low back during the course of her employment. From repetitious bending, twisting, and lifting at work she aggravated her low back."[7] The doctor assigned claimant a 25% whole body functional impairment.

Dr. Prostic, without seeing claimant again, was deposed on June 10, 2013. He testified that when he saw claimant, he diagnosed her with an L5-S1 disk herniation and felt she was a candidate for surgery. Dr. Prostic testified that the continued work activities of claimant in the ten years after her initial 1976 injury caused a worsening of her condition. Dr. Prostic testified that over that period of time, claimant developed radiculopathy, which

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[5] P.H. Trans. (Sept. 16, 1987) at 35.

[6] Gondring Depo., Resp. Ex. 3.

[7] Prostic Depo., Ex. 2 at 2.

indicated an increased disk protrusion. The doctor indicated claimant was having some nerve irritability, loss of sensation in her leg and some shrinkage of her calf, so she was either worsening or having repetitious aggravations by activities at work.

Dr. Prostic indicated that most people "get over" a herniated disk with the passage of time whether or not they have treatment. He testified that after ten years, there was a greater than 80% probability claimant would have been asymptomatic. The doctor indicated it was unusual claimant's back condition worsened and it was more common there were additional injuries during the interval.

On cross-examination, Dr. Prostic admitted having no recollection of claimant. The doctor acknowledged the only information he had was from claimant, medical records he had on December 8, 1987, and what was contained in his report. Dr. Prostic agreed that claimant lifting 50 pounds of slag with a shovel could have caused a herniated disk and produced the symptoms claimant had at the time of the examination.

Dr. William O. Hopkins, a board-certified orthopedic surgeon, began treating claimant on July 5, 1988. The doctor's notes on that date indicated claimant injured her low back in 1987[8] while working for respondent shoveling slag. Claimant reported having back and leg pain since that time. Dr. Hopkins' notes from the July 5, 1988, visit indicated he reviewed claimant's MRI, CT scan and myelogram. The myelogram revealed a disk abnormality at L5-S1. The CT scan demonstrated a bulging annulus fibrosis at the intervertebral disk at L5-S1. Dr. Hopkins noted, "I think the patient's problem is very clear-cut. She has a very abnormal disc at L5-S1, and complicating her problem, is developing an acquired lateral recess stenosis which I don't think at the present time is providing much of her difficulty, only as an ancillary factor."[9]

Dr. Hopkins testified at an August 22, 2002, deposition that claimant had a disk protrusion at L5-S1. Dr. Hopkins indicated claimant had a small deformity, a bulge, of the L4-5 disk and some facet arthritis at the L5-S1 level, primarily on the left. Dr. Hopkins felt the L5-S1 disk was causing claimant's symptoms, but could not state with accuracy an onset date for claimant's facet arthritis. Dr. Hopkins attributed the deformity to claimant shoveling slag, based on the history given by claimant.

At the request of respondent, Dr. C. Edward Wilson, an orthopedic physician, evaluated claimant on January 17, 2002. The doctor's report indicated claimant gave a history of sustaining a low back injury in April 1976 while shoveling and scooping.

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[8] This appears to be an error as claimant's last day of work for respondent was September 30, 1986, and the record indicates the shoveling slag incident occurred on April 13, 1976.

[9] Hopkins Depo. (May 16, 2013), Ex. 2.

Dr. Wilson's report indicated claimant sustained a disk bulge as the result of the April 1976 accidental injury, with ongoing symptoms despite surgical interventions. Dr. Wilson, deposed on June 6, 2003, testified claimant had stenosis, but could not say it was related to her 1976 injury. The doctor explained the term stenosis is usually applied to degenerative changes, but can be produced by a combination of degenerative changes and a bulging disk. The doctor's report mentioned claimant continued to work for respondent until 1986. The doctor opined claimant had a 20% whole body functional impairment in accordance with the *Guides*.[10]

Dr. Hopkins reevaluated claimant on April 5, 2013, and was deposed again on May 16, 2013. The doctor indicated the history he was given by claimant of her accident and injury was consistent with her testimony. Dr. Hopkins performed four procedures on claimant's back from 1988 through 1992. He testified he actively treated claimant from 1988 through 2004.[11] Claimant underwent an additional procedure on her back in 2005 by Dr. Racz in Texas.

Dr. Hopkins opined that within a reasonable degree of medical probability, claimant's work activities in respondent's pattern shop for ten years aggravated claimant's original low back condition that occurred in 1976. He assigned claimant a whole body functional impairment of 30% or above in accordance with the *Guides*.[12] The doctor gave claimant significant restrictions and stated in his April 5, 2013, report that:

> In summary, I believe that Ms. Bonnel sustained injuries to her lumbar spine during the course and scope of her employment with the Rockwell Internation [*sic*] Company. I believe that the injuries that she incurred during her employment with Rockwell Internation [*sic*] in 1987 [*sic*] [are] a direct and prevailing cause of injuries to her lumbar spine followed by, as her history findings, multiple unsuccessful treatments including multiple operative procedures to improve her condition.
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> . . .
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> I believe that her continued required work activities at Rockwell International aggravated her original injury which occurred on March 14, 1976 [*sic*] by her history until her final injury in 1987 [*sic*].
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> At the present time, I believe that as a direct and prevailing result of her work-related injury which appears to be on March 14, 1976 [*sic*] that she has been

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[10] American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (4th ed.).

[11] Hopkins Depo. (May 16, 2013) at 23.

[12] American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (3rd ed.).

> permanently disabled for work activities up until this time and I believe that this disability continues to be permanent.[13]

At the regular hearing, claimant testified of missing work for her back approximately eight times between April 1976 and September 30, 1986, her last day at work. She indicated the longest time she was off work was three to six months and the shortest time was two weeks. On some of those occasions, claimant's doctor restricted her to no lifting and respondent would give claimant light duty. Claimant admitted not filling out accident reports for periods of missed work after onsets of pain from lifting. Claimant testified she told her foreman, Les Crossland:

> "[T]he doctor's taken me off work because I can't do the lifting. It's agitating my back and he wants me to rest for a while. I can't lift right now. I can't do it." He understood. He understood what I was telling him, that I couldn't do his job at the moment, you know.[14]

On cross-examination, claimant indicated the incident with the shovel caused all of her back problems and her need for her surgeries. She testified that since the 1976 shoveling accident, sitting, standing, walking, bending, squatting, twisting, lifting, pushing and pulling agitated her back and caused her pain.

PRINCIPLES OF LAW AND ANALYSIS

K.S.A. 1986 Supp. 44-508(g) defines burden of proof as follows: "'Burden of proof' means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true."

The burden of proof is upon the claimant to establish his or her right to an award for compensation by proving all the various conditions on which his or her right to a recovery depends. This must be established by a preponderance of the credible evidence.[15]

Prior to the May 15, 2011, amendments, an accidental injury was compensable under the Workers Compensation Act even where the accident merely aggravated a preexisting condition.[16]

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[13] Hopkins Depo. (May 16, 2013), Ex. 11 at 6-7.

[14] R.H. Trans. at 20.

[15] *Box v. Cessna Aircraft Company*, 236 Kan. 237, 689 P.2d 871 (1984).

[16] *Odell v. Unified School District*, 206 Kan. 752, 758, 481 P.2d 974 (1971).

Claimant sustained a personal injury through a series of repetitive accidents from April 13, 1976, through September 30, 1986, arising out of and in the course of her employment with respondent.

K.S.A. 1986 Supp. 44-508 states in part:

> (d) "Accident" means an undesigned, sudden and unexpected event or events, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. The elements of an accident, as stated herein, are not to be construed in a strict and literal sense, but in a manner designed to effectuate the purpose of the workmen's compensation act that the employer bear the expense of accidental injury to a worker caused by the employment.
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> (e) "Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto, so that it gives way under the stress of the worker's usual labor. It is not essential that such lesion or change be of such character as to present external or visible signs of its existence.

Drs. Hopkins and Prostic opined claimant sustained a back injury in 1976 and later aggravated the back injury through her repetitive work activities from 1976 through September 30, 1986. Only Dr. Wilson testified claimant's bulged disk at L5-S1 resulted from the April 1976 shoveling incident. The Board finds Dr. Wilson's opinion is without merit. Dr. Gondring saw claimant in April and May 1979. Claimant was hospitalized in April 1979 and was examined by Dr. Gondring and two other physicians. Dr. Gondring determined claimant had a lumbosacral strain, but no evidence of disk involvement. In 1988, Dr. Hopkins diagnosed claimant with a bulging disk at L5-S1. Therefore, the Board concludes claimant sustained a change in her physical structure sometime after April 1979 as the result of her work activities. The Board also finds claimant, as a result of her repetitive work activities from 1976 through September 30, 1986, aggravated her back condition.

From 1977 until she was no longer employed by respondent, claimant performed a heavy manual labor job requiring bending, stooping, frequent lifting and lifting up to 100 pounds. Admittedly, claimant indicated at the regular hearing that all of her back problems stemmed from the 1976 incident. However, claimant also testified at the September 16, 1987, preliminary hearing that her back condition had worsened as a result of her work activities at respondent from 1977 through her last day at work.

Claimant provided timely notice of her accident.

The 1986 version of K.S.A. 44-520 required that notice of an accident be provided within ten days after the accident. However, giving notice was not necessary if the

employer had actual knowledge of the accident. In addition, lack of timely notice or any further defect was not a bar to recovery unless the employer could show it was prejudiced. In *Pike*,[17] the Kansas Supreme Court stated:

> A court when called on to inquire into the existence of prejudice from a defect in or lack of the notice required by K.S.A. 44-520 should consider that the purpose of this notice statute is to afford the employer an opportunity to investigate the accident and to furnish prompt medical treatment. (*Paul v. Skelly Oil Co.*, 134 Kan. 636, 639, 7 P.2d 73.) Prejudice may arise if claimant's injury is aggravated by reason of the inability of the employer to provide early diagnosis and treatment. Prejudice may also result if the employer is substantially hampered in making an investigation so as to prepare a defense. (3 Larson's Workmen's Compensation Law, §78.32, pp. 15-56 to 15-63.)

Claimant testified she was off work several times between 1976 and September 30, 1986, for her back. Claimant told her foreman she needed to be off work and could not continue lifting because of her back. Claimant's testimony is uncontroverted. These conversations between claimant and her foreman took place prior to September 30, 1986, claimant's date of accident. The Board has previously ruled notice can be provided before a legal date of injury by repetitive trauma.[18] The notice statute does not require notice of injury after the legal date of injury if claimant has already provided notice during the series of microtraumas.

The Board finds respondent had actual knowledge of claimant's accident. Respondent received notice of the series of aggravations when claimant was carried out of the pattern shop on September 30, 1986, due to back pain.

At oral argument, respondent argued it did not get timely notice of the accident, did not have actual knowledge of the accident and was prejudiced by lack of notice. Respondent argues prejudice is implied because if it received timely notice that work activities were causing claimant's back pain, respondent could have moved claimant to a different job. In *Andrews*,[19] the Kansas Supreme Court held:

> No doubt there are many instances whereby the lack of reasonable, prompt notice of the accident would be prejudicial to an employer. However, it is observed the statute contains two provisos. First, actual knowledge of the accident by the employer or his duly authorized agent shall render the giving of such notice

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[17] *Pike v. Gas Service Co.*, 223 Kan. 408, 409-10, 573 P.2d 1055 (1978).

[18] *Whisenand v. Standard Motor Products, Inc.*, No. 1,056,966, 2012 WL 369779 (Kan. WCAB Jan. 23, 2012); *Hunt v. Integrated Solutions, Inc.*, No. 1,046,939, 2010 WL 1918584 (Kan. WCAB Apr. 14, 2010).

[19] *Andrews v. Bechtel Construction Co.*, 175 Kan 885, 888-89, 267 P.2d 469 (1954).

> unnecessary. Claimant testified, as hereinbefore related, that early in the morning following the injury he told his boss, the foreman of the pipe department, that he hurt himself and that he had a terrific pain. He did not go into detail as to how he hurt himself. The other proviso places the burden upon the employer to prove that he has been prejudiced by lack of notice. (*Hall v. Kornfeld-Harper Well Servicing Co.*, 159 Kan. 70, 151 P.2d 688; *McMillin v. City of Salina*, 163 Kan. 575, 576, 184 P.2d 201; *Parker v. Farmers Union Mut. Ins. Co.*, 146 Kan. 832, 840, 73 P.2d 1032.) In *Paul v. Skelly Oil Co.*, 134 Kan. 636, 7 P.2d 73, we held that whether an employer was prejudiced by the failure of the workman to give notice of the accident within the time prescribed by the mentioned statute is a question of fact to be determined by the trial court. In the instant case, respondents introduced no evidence that they were prejudiced by the lack of statutory notice. The trial court in the exercise of its jurisdiction found as a fact that respondents were not prejudiced by claimant's failure to give detailed notice, and the same is binding on this court.

Respondent, like the employer in *Andrews*, presented no evidence that it was prejudiced by claimant's alleged failure to provide timely notice. At oral argument, respondent's counsel acknowledged no witnesses testified respondent was prejudiced by lack of timely notice. There is no evidence in the record that respondent would have moved claimant to a job requiring less physical labor if respondent was aware claimant's job activities in the pattern shop were causing her to have back symptoms. Nor was there evidence presented that claimant's course of medical treatment might have been different if respondent had known earlier that claimant's work activities were causing back symptoms. Simply put, in order for respondent to prevail on this issue, there must be more than a mere implication respondent was prejudiced by lack of timely notice.

> Claimant's medical treatment was reasonable and necessary to cure and relieve the effects of the back injury caused by her series of repetitive accidents.

Respondent asserts claimant's medical treatment was rendered to cure and relieve the effects of her 1976 accident. Stated another way, respondent alleges claimant's medical treatment was not reasonable or necessary to cure and relieve the effects of the back injury resulting from her series of repetitive accidents ending September 30, 1986.

Claimant's medical treatment, including her five surgeries, was to repair or relieve pain caused by her bulging L5-S1 disk. The greater weight of the evidence shows claimant developed a bulging disk at L5-S1 sometime after April 1979 and was not the result of shoveling slag on April 13, 1976. When claimant was discharged from the hospital on April 19, 1979, Dr. Gondring indicated there was no evidence of a disk issue.

The medical evidence supports claimant's contention that her repetitive heavy physical work activities aggravated her back condition. Dr. Hopkins opined claimant's

continued work in respondent's pattern shop generally led to the need for her multiple surgeries. The doctor testified extensively concerning the nature and purpose of each of claimant's five surgeries. Dr. Hopkins' opinion is uncontradicted. Uncontradicted medical testimony unless shown to be improbable, unreasonable or untrustworthy, may not be disregarded.[20] The Board finds Dr. Hopkins' opinion is reasonable and trustworthy.

Dr. Prostic indicated claimant's initial incident of shoveling slag was **capable** of causing the need for the medical treatment he knew about up to the time the doctor saw claimant. However, that is not the same as an opinion that claimant's initial incident **did** cause the need for her medical treatment. Until shortly before he was deposed, Dr. Prostic was unaware claimant had undergone five back surgeries. Dr. Prostic was not asked if the medical treatment claimant received after the doctor saw claimant in 1987 was reasonable and necessary to treat the back injury caused by her series of repetitive accidents.

CONCLUSION

1. Claimant sustained a personal injury through a series of repetitive accidents from April 13, 1976, through September 30, 1986, arising out of and in the course of her employment with respondent.

2. Claimant gave timely notice of her accident and respondent had actual knowledge of claimant's accident. If claimant failed to give timely notice of the accident, respondent failed to prove it was prejudiced.

3. Claimant's medical treatment was reasonable and necessary to cure and relieve the effects of the back injury caused by her series of repetitive accidents.

As required by the Workers Compensation Act, all five members of the Board have considered the evidence and issues presented in this appeal.[21] Accordingly, the findings and conclusions set forth above reflect the majority's decision and the signatures below attest that this decision is that of the majority.

AWARD

WHEREFORE, the Board affirms the October 3, 2013, Award entered by ALJ Belden.

IT IS SO ORDERED.

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[20] *Anderson v. Kinsley Sand & Gravel, Inc.*, 221 Kan. 191, 558 P.2d 146 (1976).

[21] K.S.A. 2012 Supp. 44-555c(k).

Dated this ____ day of March, 2014.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

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Honorable William G. Belden, Administrative Law Judge